

The Essentiality of the ERA

In the context of American history, every right granted to citizens can be viewed as a correction of a wrong. In this vein, the near constant push for gender equality and women's rights is essentially a battle to mend the mistakes of the past. While there has been much progress made towards this goal since the founding of our country, in the form of numerous legal protections and the 19th Amendment, there is much work to be done. Errin Haines of The 19th, a nonprofit news network dedicated to gender equality, wrote that "we are governing and living in a climate where many women are less free, less safe and less equal."¹ Given the many societal and economic disadvantages women face everyday, including sexism and unequal pay, it's difficult to not concede to this perspective. The fight for women's rights is still ongoing today because these issues must still be addressed. Gender inequality is too widespread and severe of an issue to continue to place the responsibility of a solution in the hands of local and state policymakers. The best way to ensure equal rights for women is to formally add the Equal Rights Amendment to the U.S. Constitution, as the 28th Amendment.

The first major push for the Equal Rights Amendment was in 1923, but it didn't experience success until 1972. Advocated for primarily by Alice Paul's National Woman's Party (NWP) and their supporters, the final version of the amendment would have ensured that "equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," as well as given Congress the power to enforce its provisions.² It passed through both houses of Congress but was only ratified by 35 of the 38 states required.

¹ Errin Haines, "Why the Equal Rights Amendment Is Still a Work in Progress, 100 Years Later," The 19th, March 10, 2023, <https://19thnews.org/2023/03/equal-rights-amendment-100-years/>.

² Hanover College History Department, "Equal Rights Amendments," Hanover College History Department, accessed March 12, 2023, <https://history.hanover.edu/courses/excerpts/336era.html>.

The Research Division of the Nevada Legislative Counsel Bureau provided an eloquent summary of the position of the ERA's proponents. They claim that "state and federal legislation has not eliminated sexual discrimination in many aspects of life" and that making the ERA a constitutional amendment would "provide the necessary mandate for legislation and litigation to eradicate legal inequality between success."³ The ERA serves the dual purpose of advancing the standing of women and establishing a federal, universal basis for women's rights. Because of this, it is "both a symbolic goal and a practical instrument for change."⁴ The claim that the ERA would bring these benefits is supported by our own history. Any improvement to the rights of women have brought about positive change, and there's no reason to believe that this wouldn't be the case in this scenario as well. A constitutional amendment is also, without a doubt, the most effective way to ensure the rights of women. Relying on state level enforcement has proven to be problematic for issues in the past, including desegregation and voting rights. When it comes to upholding the rights of individuals, the federal government is the most capable, especially when the constitution is used to its aid. Another effect the ERA would have is making the women's rights debate significantly less partisan. Errin Haines of The 19th reflects that "the framing around addressing discrimination often devolves into a debate over winners and losers, rather than a vision of a more inclusive society."⁵ With a constitutional amendment, this will cease to be an issue of Democrat versus Republican or Liberal versus Conservative, and will instead become a matter of enforcement. Our country can ensure that the rights of half our population no longer depend on the partisan alignment of reelection-seeking politicians. Much of

³ Research Division Legislative Counsel Bureau, "Background Paper 79-7 Equal Rights Amendment," Background Paper 79-7 Equal Rights Amendment § (1979), p. 3.

⁴ *ibid* p. 3

⁵ Haines

American history has involved the push for equal rights and equal opportunity. It's time to make the final push for American women.

The primary reason for the failure of the ERA was the internal conflict among women. In the introduction of the Equal Rights Amendment Project's contemporary bibliography study, editor and compiler Hazel Greenberg reports that success occurred "only when female unity was reached."⁶ This unity was shattered by anti-feminist Phyllis Schlafly's conservative Stop ERA movement. Schlafly's main argument is that women shouldn't "'lower' themselves to equal rights 'when [they] already have the status of special privilege."⁷ This may have held some water in the antiquated times when it was agreed upon that a woman's place was the home, but now that the spheres of men and women are overlapped and intertwined, any distinctions of gender roles, or so called "special privileges," serve no purpose besides limiting and restraining the rights and activities of women.

Schlafly's opposition movement led to the faltering of the ERA's ratification. In today's society where the foundation of her argument no longer stands, the addition of the ERA has but one obstacle: legality. The final deadline for ratification was 1982. However, this hasn't stopped three states from finally ratifying the amendment in the past decade as a result of grassroots efforts. Nevada was the first state to ratify the amendment in the 21st century. Many of the ERA supporters in the assembly view the previous deadline as "little more than a paper tiger" and that there's nothing "stopping national lawmakers from bumping it up again."⁸ Illinois and Virginia followed Nevada's lead and ratified the ERA shortly afterwards. Now that the 38 required states

⁶ Anita Miller, "The Equal Rights Amendment.: A Bibliographic Study," in *The Equal Rights Amendment.: A Bibliographic Study*, ed. Hazel Greenberg (Westport, Connecticut: Greenwood Press, 1976), p. xi-xxvii, p. xvii.

⁷ Elizabeth Kolbert, "Phyllis Schlafly and the Right-Wing Revolution," *The New Yorker*, October 31, 2005, <https://www.newyorker.com/magazine/2005/11/07/firebrand>.

⁸ Colin Dwyer and Carrie Kaufman, "Nevada Ratifies the Equal Rights Amendment ... 35 Years after the Deadline," NPR (NPR, March 21, 2017), <https://www.npr.org/sections/thetwo-way/2017/03/21/520962541/nevada-on-cusp-of-ratifying-equal-rights-amendment-35-years-after-deadline>.

have ratified the amendment, the new debate is over whether or not the deadline still stands. In order to pass the amendment, there must be a bigger push to overturn it in the form of activism, education, and litigation. Two facts make this possible. There is no clause in the constitution that provides for the creation of a deadline for the ratification of an amendment. Furthermore, the actual ERA that was approved by Congress includes no mention of a deadline whatsoever. There should be no time limit on achieving equality for women in the United States. Once this idea becomes reality, the ERA will finally become a constitutional amendment and women's rights will be protected on a national level.

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